IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

–

WRIT PETITION NO : 34410 of 1998

Between:

1. K.V.S.Subhakar, S/o:K.Sitarama Murty,

aged 27 years, R/o: Vijayawada.

2. G.Srinivasa Rao, S/o:G.Ramakrishna Rao,

aged 31 years, R/o: Vijayawada.

3. M.Mukteswara Rao, S/o: Rambabu

aged 27 years, R/o: Vijayawada,

Krishna District.

… PETITIONERS

A N D

1. A.P.S.E.B. rep. By its Member Secretary,

Vidyutsoudha, Hyderabad.

2. Chief Engineer (O & M), Vijayawada Thermal

Power Station, Ibrahimpatnam, Krishna Dist.

3. Superintending Engineer (O & M), Stage-III,

Vijayawada Thermal Power Station, APSEB,

Ibrahimpatnam, Krishna District.

… RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ and direct the respondents to consider and appoint the petitioners as Junior Plant Attendants in respect of B.P. (P & G – Per) Ms.No.215, dated 19.11.1998 and B.P. (P & G – Per) Ms.No.37, dated 18.05.1997 consequent on abolition of contract labour system in "Auxiliary A/c Plant" of Vijayawada Thermal Power Station, Ibrahimpatnam, Krishna District and allow all consequential benefits.

Counsel for the Petitioners : MR.YEDULA VENKATARAMANA

Counsel for the Respondents : SMT.K.SESHARAJYAM

S.C. FOR RESPONDENTS

The Court made the following :

O R D E R

This writ petition is filed seeking a Mandamus directing the respondents to consider the case of the petitioners for appointment as Junior Plant Attendants as per B.P.Ms.No.215, dated 19.11.1998 read with B.P.Ms.No.37, dated 18.05.1997 consequent upon abolition of contract labour system in "Auxiliary A/C Plant" of Vijayawada Thermal Power Station.

It is the case of the petitioners that they have worked as Contract Labour during the period from August 1994 to June, 1997 under

M/s Reclaim Refrigeration and Air Conditioning works and their services were utilized in "Auxiliary A/C Plant" of Vijayawada Thermal Power Station in operation works. The State Government had issued G.O.Ms.No.41, dated 23.09.1996 purporting to abolish contract

labour system in 33 categories in APSEB, which includes “Auxiliary A/C Plant”. In view of the said G.O. the contract labour system stood abolished and in view of the Judgment of the Apex Court reported in ***AIR INDIA STATUTORY CORPORATION V/s. UNITED LABOUR UNION,*** wherein it was held that the direct relations of employer and employee is created between principal employer and workmen and that the workmen gets right to be regularized in services, the 1st respondent issued B.P.Ms.No.37, dated 18.05.1997 providing benefit of regular appointment to the contract labour, who worked in the 33 abolished categories. In fact, the first respondent issued B.P.Ms.No.215, dated 19.11.1998 absorbing the contract labour, who worked in operation works in 33 categories and appointment orders were issued accordingly. Though it is the case of the petitioners that earlier they could not approach this Court due to some personal reasons, but however, they are also entitled for consideration as was done by the first respondent in B.P.Ms.No.215, dated 19.11.1998. The persons, whose services were regularized as per B.P.Ms.No.215, dated 19.11.1998, are similarly situated to that of the petitioners. Therefore, the petitioners seek similar benefit of regular appointment as Junior Plant Attendants since all of them are qualified and eligible to hold the said posts. Though they made certain representations to the respondents in this regard, their cases were not considered. Hence, this writ petition.

Though no counter is filed, the counsel for the respondents, on the basis of the para-wise remarks received, submitted that the B.P.Ms.No.215, dated 19.11.1998 was issued absorbing 21 candidates who are contract labourers of M/s. Indure Limited and were working in Ash Plant Operations, which is among 33 categories, under which contract employment was prohibited. In so far as the petitioners are concerned, they were not on the rolls as on 23.09.1996, the date from which employment of contract labour was prohibited by the Government in G.O.Ms.No.41, dated 23.09.1996, and hence they are not eligible for any absorption in APSEB.

However, learned counsel for the petitioners asserted that the petitioners worked during the period from August, 1994 to June, 1997 under one M/s Reclaim Refrigeration and Air Conditioning Works and their services were utilized in “Auxiliary A/C Plant”. As the contract labour system has been abolished in the 33 categories, including the A/C Plant in the operation works, the contention of the respondents that the petitioners were not on the rolls as on 23.09.1996, is not correct.

In view of the above circumstances, without expressing any opinion on merits, I deem it appropriate to direct the petitioners to file proof of having been in the employment as

contract labour with the said contractor-M/s. Reclaim Refrigeration and Air Conditioning Works as on 23.09.1996, before the respondents. On production of such certificate, the respondents shall examine the same and pass appropriate orders, and if the petitioners are eligible on par with those persons, whose cases were considered as in B.P.Ms.No.215, dated 19.11.1998, the case of the petitioners shall also be considered for regularization, in accordance with law, within a period of three months from the date of receipt of a copy of this order.

With the above observations, the writ petition is disposed of. There shall be no order as to costs.

JUSTICE C.V.RAMULU

1st JULY, 2005

PGS

To

1. The Member Secretary, A.P.S.E.B.,

Vidyutsoudha, Hyderabad.

2. Chief Engineer (O & M), Vijayawada Thermal

Power Station, Ibrahimpatnam, Krishna Dist.

3. Superintending Engineer (O & M), Stage-III,

Vijayawada Thermal Power Station, APSEB,

Ibrahimpatnam, Krishna District.

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THE HON'BLE MR JUSTICE C.V.RAMULU

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